

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA,

Case No. 16-CR-0204(1) (PJS/SER)

Case No. 18-CV-2530 (PJS)

Plaintiff,

v.

ORDER

JESSE DUANE JACOBS,

Defendant.

This matter is before the Court on the motion of defendant Jesse Jacobs to vacate, set aside, or correct his sentence under 28 U.S.C. § 2255. After consulting with counsel, *see* ECF No. 83, Jacobs has decided to withdraw his motion, *see* ECF No. 82.

Accordingly, the Court will deny Jacobs's motion without prejudice.

In his letter withdrawing his § 2255 motion, Jacobs also requests that the Court stay the collection of the \$5,000 special assessment imposed under 18 U.S.C. § 3014. But Jacobs does not identify any source of authority for the Court to stay the collection of this assessment. The assessment is collected "in the manner that fines are collected in criminal cases." 18 U.S.C. § 3014(f). Under the Inmate Financial Responsibility Program, the Bureau of Prisons ("BOP") helps inmates with financial obligations to develop a plan to meet those obligations. *See* 28 C.F.R. § 545.11. Jacobs does not mention whether he is participating in the Inmate Financial Responsibility Program, but

his letter indicates that he is, as he states that the BOP collects quarterly payments from him.

Before Jacobs can challenge the BOP's collection procedures, he must exhaust his administrative remedies. *United States v. Bugh*, No. 98-CR-0308(2) (PJS), 2012 WL 3230530, at *1 (D. Minn. Aug. 6, 2012). Nothing in Jacobs's letter indicates that he has exhausted such remedies. Even if he has done so, the appropriate procedure for him to challenge the payment schedule would be to file a petition for a writ of habeas corpus under 28 U.S.C. § 2241 in the district in which he is incarcerated. *Id.* The Court therefore denies Jacobs's request to stay the payment of the special assessment.

ORDER

Based on the foregoing, and on all of the files, records, and proceedings herein,
IT IS HEREBY ORDERED THAT:

1. Defendant's motion to vacate, set aside, or correct his sentence [ECF No. 79] is DENIED WITHOUT PREJUDICE.
2. Defendant's request that the Court stay the Bureau of Prison's collection of the special assessment imposed under 18 U.S.C. § 3014 is DENIED.

Dated: October 3, 2018

s/Patrick J. Schiltz

Patrick J. Schiltz

United States District Judge